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CONSTITUTIONAL LAW — SEPARATION OF POWERS — CURATIVE LEGISLATION AFTER JUDICIAL DETERMINATION. — On an information in the nature of *quo warranto* against the members of a local board of education, judgment was given for the defendants. The supreme court reversed this judgment on the ground that their election was void because women, who had participated, were not entitled by law to vote, and remanded the cause to the lower court directing that a judgment of ouster be entered. Before this was entered, the legislature passed an act providing that where all inhabitants, regardless of sex, had voted for a board of education, such election was thereby declared valid. The judgment of ouster having nevertheless been entered, an appeal, based on the statute, was prosecuted. *Held*, that the judgment be affirmed. *People* v. *Clark*, 133 N. E. 247 (Ill.).

Curative acts are usually valid if the enactment was originally within the power of the legislature. *Stockdale* v. *Ins. Co.*, 20 Wall. (U. S.) 323. See COOLEY, CONSTITUTIONAL LIMITATIONS, 7 ed., 134–139, 330–331, 528–546. Nor does the pendency of litigation affect this principle. *United States* v. *Heinszen & Co.*, 206 U. S. 370; *State* v. *Manning*, 14 Tex. 402. See 34 HARV. L. REV. 212. The intervention of a final judgment may, however, be material. If there has been no judgment, the operation of the statute is to clothe with *de jure* authority officers who have previously had an actual *de facto* existence. See *People* v. *Stitt*, 280 Ill. 553, 117 N. E. 784. *Cf. Pennsylvania* v. *The Wheeling and Belmont Bridge Co.*, 18 How. (U. S.) 421; *Western Union Tel. Co.* v. *Louisville and N. R. R. Co.*, U. S. Sup. Ct., Oct. Term, 1921, No. 259. But if a final judgment of ouster has been rendered, their existence even *de facto* has been terminated, and there is nothing upon which the statute can operate, unless it overturns the judgment. This would be an unconstitutional exercise of judicial power by the legislature. *People* v. *Owen*, 286 Ill. 638, 122 N. E. 132. *Cf. People* v. *Cowen*, 233 Ill. 308, 119 N. E. 335. See ILL. CONST., Art. 3. However, it seems that the legislature originally had power to make appointments to the offices in question. *Cf. People* v. *Morgan*, 90 Ill. 558; *People* v. *Hoffman*, 116 Ill. 587, 5 N. E. 596, 8 N. E. 788. It is probable that the present statute might with propriety have been construed as making appointments to them. The court, however, apparently overlooked this possibility. Despite the application by the court of the ordinary rule of presumption against a legislative intent to make a statute retrospective, it is evident that the statute was intended to supply a remedy for the situation in question. The decision seems, therefore, open to criticism.

EQUITY — JURISDICTION — INJUNCTION BY CROPPER AGAINST LANDLORD WHO SEEKS FORCIBLY TO OUST HIM FROM THE PREMISES. — The parties entered into a contract by which the defendant was to furnish the land and fertilizer, and perhaps the seed, and the plaintiff to furnish the tools and to perform the labor necessary to cultivate and harvest the crops. The crops were to be divided when harvested, and are now ready to harvest. The defendant, with others, attempted to kill the plaintiff, and by force to induce him to quit the contract. The plaintiff fears bodily harm if he attempts to continue the work, and prays that the defendant be enjoined from molesting the plaintiff and that a receiver be appointed to harvest the crop. *Held*, that the prayer be granted. *Bussell* v. *Bishop*, 110 S. E. 174 (Ga.).

Assuming, as the court does, that the plaintiff was an employee only, the appointment of a receiver to carry out the contract cannot be supported. The plaintiff had an action at law for breach of an implied promise not to hinder performance, or for breach of the defendant's express promise in the event the defendant refused to perform. See 2 WILLISTON, CONTRACTS, § 677. This remedy would have adequately protected the plaintiff's rights under the contract. The crop was ready for harvesting, and damages, therefore,

could have been accurately assessed. *Cf. Whitwood Chemical Co.* v. *Hardman*, [1891] 2 Ch. 416. With respect to the interference with the personal security of the plaintiff, the court, in harmony with Georgia's enlightened attitude toward preventive relief, properly restrained the defendant from further acts of violence. *Cf. Stark* v. *Hamilton*, 149 Ga. 227, 99 S. E. 861; *Pavesich* v. *New England Life Ins Co.*, 122 Ga. 190, 50 S. E. 68. The justification for such relief is that money damages cannot be an adequate remedy for injuries to the person. Unfortunately many courts are less enlightened. *Cf. Ashinsky* v. *Levenson*, 256 Pa. St. 14, 100 Atl. 491. See Roscoe Pound, "Equitable Relief Against Defamation," 29 HARV. L. REV. 640. This defect is remedied in some states by statutes giving protection to those threatened with physical harm. See 1920 OREG. LAWS, § 1819; 1919 MO. REV. STAT., §§ 3747, 3748.

INSURANCE — ACCIDENT INSURANCE — INDEMNITY AGAINST CONSEQUENCES OF CRIMINAL NEGLIGENCE. — The assured held a policy of indemnity against loss from liability incurred on account of accident. While in an intoxicated condition and driving his automobile at an unlawful rate of speed, he struck and injured X, who died from his injuries. As a result the assured was convicted and sentenced to imprisonment for an offense under the criminal code. He now seeks indemnity from the insurer to the amount of a judgment recovered against him by the dependents of X. *Held*, that the plaintiff may not recover. *O'Hearn* v. *Yorkshire Ins. Co.*, 21 Ont. W. N. 67 (Ont. Div. Ct.).

Public policy does not necessarily prohibit contracts indemnifying against the consequences of an illegal act unless made with the deliberate purpose of accomplishing the act. *Jewett Publishing Co.* v. *Butler*, 159 Mass. 517, 34 N. E. 1087; *Peterson* v. *Chicago & N. W. Ry.*, 119 Wis. 197, 96 N. W. 532. See 3 WILLISTON, CONTRACTS, § 1751. Accordingly, insurance of owners against the consequences of negligence in the maintenance or use of automobiles has been generally upheld in the absence of statutory inhibition. *Gould* v. *Brock*, 221 Pa. St. 38, 69 Atl. 1122; *Messersmith* v. *American Fidelity Co.*, 133 N. E. 432 (N. Y.). If, then, the contract of insurance is valid, the fact that the assured's tort may also amount to a statutory misdemeanor or even manslaughter is not ground for denying him relief. *Messersmith* v. *American Fidelity Co.*, *supra*; *Tinline* v. *White Cross Ins. Ass'n*, [1921] 3 K. B. 327. *Cf. Taxicab Motor Co.* v. *Pacific Coast Cas. Co.*, 73 Wash. 631, 132 Pac. 393. If denied in these cases, the indemnity dwindles to the vanishing point, in view of statutes making criminal well-nigh every negligent act of the automobile operator. See *Messersmith* v. *American Fidelity Co.*, *supra*, at 432. Furthermore, the real sufferer, if the principal case is followed, may often be the innocent victim of the accident. Allowing relief, on the other hand, will have but a remote tendency to encourage violations of the criminal law. The insurance affords no protection from criminal responsibility. *Cf. Patterson* v. *Standard Accident Ins. Co.*, 178 Mich. 288, 144 N. W. 491. Secondly, the mind of the man who acts negligently adverts to neither his civil nor his criminal responsibility. His case is clearly distinguishable from that of one who acts intentionally. In the latter case relief is properly denied. *Cf. Burt* v. *Union, etc. Ins. Ass'n*, 187 U. S. 362. See 21 HARV. L. REV. 530. But *cf. Murphy* v. *Metropolitan Life Ins. Co.*, 110 S. E. 178 (Ga.).

INTERSTATE COMMERCE — WHAT CONSTITUTES INTERSTATE COMMERCE — STATE REGULATION AND PRICE-FIXING IN THE WHEAT INDUSTRY. — The complainant, and other buyers of like character, are owners of elevators and purchasers of grain bought in North Dakota to be shipped and sold at terminal markets in other states. The grain is bought from the producer at Minneapolis prices with a margin of profit added. The elevator operators ship to the highest bidder, but it is very unusual to get an offer from a point within